

Supreme Court of Kentucky


ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND
PROCEDURE FOR THE 25TH JUDICIAL CIRCUIT, FAMILY
COURT DIVISION, CLARK AND MADISON COUNTIES**

Upon recommendation of the Judges of the 25th Judicial Circuit, Clark and Madison counties, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 25th Judicial Circuit, Family Court Division, Clark and Madison counties, are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 5th day of June 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

FAMILY COURT RULES OF THE 25TH JUDICIAL CIRCUIT

RULE 1 INTRODUCTION

1.01 Introduction

These are the Rules of Practice of the Twenty-Fifth Judicial Circuit (Clark and Madison Counties) Family Court (hereinafter referred to as "Family Court"). These Rules supplement the Kentucky Rules of Civil Procedure, Kentucky Rules of Criminal Procedure and the Family Court Rules of Procedure and Practice (FCRPP).

1.02 Effective Date

These Rules shall take effect immediately upon approval by the Kentucky Supreme Court.

1.03 Citation

Family Court Local Rules 25th (FCLR25)

RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

2.01 Schedule

By December 1st of each year, the Court will publish a calendar for all dockets for the entire following year. Subsequent orders cancelling or rescheduling dockets shall be filed with the Circuit Clerk.

Subject to specific dates set forth in each calendar year, regular dockets shall be on the following days and times:

Clark County

Monday 9:00 a.m. Paternity and Child Support ("J") cases
 10:30 a.m. Child Support ("CI") cases

Tuesday 9:00 a.m. Uncontested Final Hearings
 Adoption and Termination of Parental Rights
 Status Conferences
 9:30 a.m. Domestic Motion Docket
 1:30 p.m. Case Management Conferences

Thursday 9:00 a.m. Domestic Violence

10:00 a.m. Juvenile Dependency, Neglect and Abuse
1:30 p.m. Juvenile Status

Madison County

Monday 9:00 a.m. Uncontested Final Hearings
 Adoption and Termination of Parental Rights
 Status Conferences
 9:30 a.m. Domestic Motion Docket
 1:30 p.m. Case Management Conferences

Tuesday 9:00 a.m. Paternity and Child Support ("J" cases)
 1:30 p.m. Child Support ("CI") cases

Wednesday 9:00 a.m. Domestic Violence
 1:30 p.m. Juvenile Dependency, Neglect and Abuse
 2:30 p.m. Juvenile Status

To the extent the above regular dockets and courtroom space allows, all other days are reserved for emergency, special and final hearings as set by the Court.

2.02 Motion Requirements

- A. All motions to be heard on either the Monday or Tuesday Motion Docket shall be filed and served on or before the close of business 10 days prior to the hearing on the motion unless said deadline falls on a weekend or holiday, in which event filing shall occur on the preceding business day of the Clerk. Any exceptions to these deadlines shall be by leave of the Court only.
- B. Prior to the taking of testimony on any motion, counsel shall certify, either in writing or on the record, that a good faith attempt has been made through negotiations to resolve the issue(s) to be heard.
- C. All motions which could require supportive testimony shall be verified or supported by affidavits, to which the opposing party may file a verified response or supporting affidavits 24 hours prior to the hearing. After reviewing the motions, response and affidavits, additional testimony shall be heard only if deemed by the Court to be helpful in rendering its ruling.
- D. With the exception of docket entries made by the Court, all motions, pleadings and orders shall be typewritten on white 8 1/2 x 11 paper, in no less than 12 point font, and in the English language.

RULE 3 ADOPTION AND TERMINATION OF PARENTAL RIGHTS

3.01 Adoption Hearings

All adoption hearings shall be set for hearing by telephoning the Family Court's scheduling legal assistant. Upon assignment of a hearing date, the requesting party shall serve notice of the hearing to all necessary parties in accordance with KRS 199.515.

3.02 Involuntary Termination of Parental Rights

Upon the filing of an Involuntary Termination of Parental Rights, the scheduling legal assistant shall forthwith docket a Status Conference. All Involuntary Termination of Parental Rights Hearings shall be set for hearing upon motion of a party or the Guardian Ad Litem on the Domestic Motion Docket.

3.03 Voluntary Termination of Parental Rights

All voluntary termination of parental rights hearings shall be set for hearing by the Family Court in accordance with KRS 625.042. The Circuit Clerk shall notify the Family Court Judge immediately upon the filing of a Petition for Voluntary Termination of Parental Rights.

3.04 Appointment of GAL

A Guardian Ad Litem shall be appointed in **ALL** adoption cases involving a child(ren).

3.05 Review

In cases where parental rights are terminated at a final hearing, pursuant to FCRPP 36, a review shall be docketed by the Court 90 days from the date of entry of the order of termination to inform the Court of the child's status with respect to finalization of placement or adoption.

RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

There shall at all times be a governing protocol providing how alleged victims of domestic violence may seek relief by restraining order 24 hours a day, 7 days a week. Unless a different protocol is agreed to by all Family, District and general jurisdiction Circuit Judges within the 25th Circuit and approved by the Kentucky Supreme Court, the Uniform Protocol published by the Kentucky Supreme Court shall be the controlling protocol, and same is hereby incorporated by reference herein

The Protocol is attached hereto in Appendix A.

RULE 5 PATERNITY AND PATERNITY-RELATED URESA ACTIONS

Pursuant to FCRPP 14(3), only motions regarding paternity, child support and modifications of child support shall be heard on the child support docket. All motions regarding custody and timesharing in paternity cases shall be heard on the regular domestic motion docket.

RULE 6. DEPENDENCY NEGLECT AND ABUSE

There are currently no local rules relating to Dependency Neglect and Abuse. See FCRPP 16 – 31 for uniform statewide rules.

RULE 7. DOMESTIC RELATIONS PRACTICE

7.01 Factual Disclosure Requirement

The parties may enter into an agreed order waiving the filing of preliminary and/or final Verified Financial Disclosures (AOC-238 and AOC-239) only in the following circumstances:

1. Pursuant to FCRPP 3, the parties have entered into an agreement which resolves **all** issues between them.
2. The parties' Separation Agreement or Agreed Order waiving disclosures acknowledges their right to receive disclosures from the other party and their agreement to waive disclosures.
3. The parties' Separation Agreement or Agreed Order waiving disclosures contains the parties' acknowledgement that each has made full disclosure to the other of all information that would have been contained in a Verified Financial Disclosures.

If the Court, in making its determination regarding the conscionability of the parties' Separation Agreement, deems more information is necessary, the Court may subsequently order the filing of Verified Financial Disclosures despite the parties' agreement to waive said Disclosures.

7.02 Parent Education Clinic

Pursuant to FCRPP 3(5), in proceedings that involve the custody of a minor child(ren), parents or custodians may be ordered to complete the Parent Education Clinic at their expense before a final hearing will be scheduled. In particular cases, the Court, in its discretion, may order more advanced family education or counseling. Failure of any party to comply

with such an order may result in a reduction of time-sharing, custody or visitation.

7.03 Agreements Acknowledged

All agreements between parties filed of record must be signed by both parties. In the event that a party is represented by counsel, the agreement must also be signed by counsel. If a party is not represented by counsel, such agreements must be signed and acknowledged before a person authorized to take acknowledgments under KRS Chapter 423, a Deputy Circuit Clerk or Court Support Worker.

7.04 Guardian Ad Litem

Upon motion of a party or upon its own motion, the Court may appoint a Guardian Ad Litem to represent the child(ren) in a dissolution matter. The Guardian Ad Litem shall receive a reasonable fee for his/her services or expenses to be assessed in just proportions against the parties. Attorneys desiring GAL appointments must complete the Guardian Ad Litem training provided by the Administrative Office of the Courts.

7.05 Assignment for Hearing

No proceeding for dissolution of marriage, including joint petition, shall be assigned for final hearing until thirty (30) days have elapsed following the date a joint petition is filed or the Respondent is actually summoned or is deemed to have been summoned by warning order. In no event shall any such case be assigned for final hearing before thirty (30) days have elapsed following entry of appearance or service of summons, or, if there is an infant child(ren), before sixty (60) days have elapsed from the date of service of summons, appearance or responsive pleading, whichever occurs first.

7.06 Method of Final Hearing

- A. Pursuant to the mandate of Rule 43.04 of the Kentucky Rules of Civil Procedure, in all trials concerning maintenance or divorce, the testimony shall be taken by deposition, unless the parties opt for the alternate method of trial of said actions as provided herein.
- B. In all contested domestic relations actions, the parties may choose to have the case heard by the Family Court Judge rather than have the testimony taken by deposition. To exercise the option to have the case heard, Petitioner shall make the request on the Pre-hearing Memorandum filed prior to the Case Management

Conference. Unless the Respondent promptly objects prior to the date of the Case Management Conference, it will be considered that both parties have opted to proceed by oral testimony. All hearings shall be conducted on the video record.

- C. In its discretion, the Court may order that testimony of witnesses other than the parties be taken only by deposition.

7.07 Uncontested Final Hearings

- A. An uncontested hearing is one in which the parties have agreed to all the necessary elements to dissolve the marriage contract, establish custody and support, maintenance and divide the property and debts of the marriage or when respondent is in default or has been served by a Warning Order Attorney and a Warning Order Attorney Report has been filed.
- B. In uncontested cases where there is a written Separation Agreement executed by both parties and filed in the record, the parties shall submit proof by deposition or written interrogatories. The parties must file an Agreed Order to take proof by deposition or written interrogatories and submit on the record, proof by deposition or written interrogatories and a proposed Decree of Dissolution to the Family Court Judge. In the event no Agreed Order has been signed, either party may file a Motion to Submit, giving notice to all parties. Alternatively, either party may request an uncontested final hearing on oral testimony. The hearing shall be scheduled by telephoning the Family Court's scheduling legal assistant. Upon assignment of a final hearing date, the requesting party shall serve notice of the hearing to all parties. In uncontested cases involving minor children, a child support worksheet shall be provided so the Court can determine whether any deviation therefrom is proper.

7.08 Contested Final Hearings

- A. A contested hearing is one in which the parties have not agreed upon the division of property, debts, custody, support, maintenance, or any one of the elements, and the taking of evidence is necessary to permit the Court to render a determination.
- B. Prior to scheduling a contested final hearing, a Case Management Conference shall be held in all contested cases with counsel and parties in attendance.

- C. A Case Management Conference may be scheduled by filing a motion therefor with the Family Court on the Domestic Motion Docket. Except for good cause shown, no Case Management Conference will be scheduled if the Parent Education Clinic has been ordered by the Court and has not been completed by both parties and Verified Financial Disclosures have been filed.
- D. At least seven (7) days prior to the Case Management Conference, each party shall file a Pre-hearing Memorandum which shall include the following information:
 - 1. All issues in dispute.
 - 2. All issues resolved by stipulation or agreement.
 - 3. Income and Expense Schedule:
 - a. Employment status, including income and deductions therefrom;
 - b. Income from sources other than employment;
 - c. Present monthly expenses;
 - 4. Property Schedule and proposed division of:
 - a. Marital real estate including the fair market value and the unpaid balance of any liens thereon;
 - b. Marital personal property including the value and the unpaid balance of any liens thereon;
 - c. Marital debts including the date incurred and the balance thereon;
 - d. Non-marital real estate including the fair market value, the balance of any liens thereon, and the legal basis relied upon to support such a designation;
 - e. Non-marital personal property including the value, the balance of any liens thereon, and the legal basis relied upon to support such a designation;
 - f. Non-marital debts including the date incurred and the balance thereon.
 - 5. List of all witnesses, both expert and lay, and a brief statement of the issues about which the witness will testify.
 - 6. List of documents and exhibits.
 - 7. Statement of special problems
 - 8. In contested child custody matters:
 - a. A brief statement supporting the party's position on custody and timesharing;

- b. Whether the parties have met with the Family Court Support Worker;
 - c. List of all other cases involving the child(ren) including, but not limited to, juvenile, criminal and custody matters.
 - 9. In contested child support matters:
 - a. Attach a Child Support Guidelines Worksheet;
 - b. A brief statement on the issues in dispute.
 - 10. Estimated length of hearing and whether testimony is to be taken by deposition or by oral testimony before the Court.
- E. In the event either party fails to file the Pre-hearing Memorandum or either party files an incomplete Pre-hearing Memorandum, the Family Court Judge may order such remedies in regard to the failure that are just, including, but not limited to the following:
- 1. The matters set forth in the compliant party's schedule may be taken as established;
 - 2. The noncompliant party may be prohibited from introducing designated matters into evidence;
 - 3. The Court may stay further proceedings until the noncompliant party is in compliance; and/or
 - 4. The Court may assess all costs, including attorney's fees, against the noncompliant party.

RULE 8 STATUS OFFENSES

8.01 Status and Delinquency

These rules shall govern status offenses as defined by the Kentucky Unified Juvenile Code. Public offense actions shall be handled on a separate Juvenile Docket of District Court and shall not be heard in Family Court.

RULE 9 MISCELLANEOUS

9.01 MEDIATION

A. Referral to Mediation

The Family Court Judge may, by appropriate Order, refer a case to mediation with or without the consent of the parties. Cases shall be referred to a court-approved mediator unless the parties otherwise agree on a mediator who is not on the court-approved list but who has the equivalent experience as someone on said list.

B. Confidentiality

Except as otherwise provided by this rule or ordered by the Court for good cause shown, all mediation documents and mediation communications are confidential and shall not be disclosed. They are not subject to disclosure through discovery or any other process, and are not admissible into evidence in any judicial or administrative proceeding. Nothing in this rule shall alter a mediator's responsibility to report abuse pursuant to KRS 209.030 and KRS 620.030.

C. Reporting to the Court

- A. If a case is settled prior to or during mediation, an attorney for one of the parties shall prepare and submit to the Court an Order reflecting the fact of settlement as in any other case.
- B. If some but not all of the issues in the case are settled during mediation or if agreements are reached to limit discovery or on any other matter, the parties shall submit a joint statement to the Court enumerating the issues that have been resolved and the issues that remain for trial. This statement shall be submitted within ten (10) days of the termination of mediation. Unsettled cases shall then be returned to the Court's active docket in compliance with FCRPP 2(6).

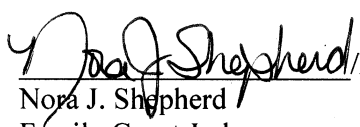
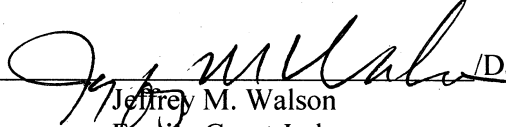
9.02 ASSIGNMENT OF CASES AND CONSOLIDATION AND JOINING TOGETHER OF RELATED ACTIONS

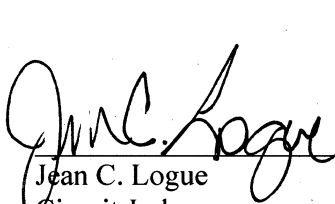
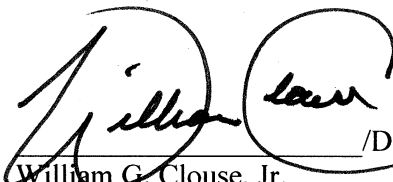
- A. In order to promote the goal of "one family, one judge", simultaneous with the filing of any initial pleading, the Petitioner or Movant shall also file with the clerk a Cross Reference Data Sheet on a form approved by the Court. The Clerk shall examine said form, and if a matter involving the same party or parties has previously been assigned a case number, the new filing shall be assigned to the same division as the previous or pending case. The only exceptions to this requirement shall be after-hours Petitions for Emergency Protective Orders or Emergency Custody Orders.

In the event no such prior or pending case exists, the Clerk shall assign cases on a completely random basis.

- B. Pursuant to CR 42.01, when two or more different actions are pending involving the same parties and common questions of law or fact, those cases may be consolidated. Common issues may be heard in both cases simultaneously, but the files shall be maintained separately.
- C. After each action has been assigned to a division, the judge thereof may transfer the case to another division for good cause.
- D. A motion either to consolidate or to join together related actions shall be made to the Family Court or the Court on its own motion may consolidate two or more different actions involving the same parties and common questions of law or fact.

If a case involves the same parties and common questions of law or fact, the parties shall file a motion to consolidate or join the actions, or the Court may consolidate the actions on its own motion.

 /Date _____  /Date _____
Nora J. Shepherd Jeffrey M. Walson
Family Court Judge Family Court Judge

 /Date _____  /Date _____
Jean C. Logue William G. Clouse, Jr.
Circuit Judge Circuit Judge

APPENDIX A

TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL 25th JUDICIAL CIRCUIT AND DISTRICT CLARK AND MADISON COUNTIES

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. Uniform Protocol for Processing Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters will be heard by the Family Court.
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases may be reassigned or transferred to another circuit when it is discovered that a dissolution/child custody matter between the parties is pending in another county, the Family Court Judge may transfer the domestic violence case to the other county OR may retain the case and confer with the judge in the court where the dissolution/child custody matter is pending in the judge's discretion. Consistent with FCRPP 12, if the case is transferred to another circuit, any emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

During regular office hours the petition should be obtained and filed in the Offices of the Clark or Madison Circuit Court Clerk.

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

Clark and Madison Circuit Court Clerks and all Deputy Clerks
Clark and Madison County Attorneys, Assistant County Attorneys and office staff
Clark and Madison County Jailers and all Deputy Jailers
Clark and Madison County Sheriffs and all Deputy Sheriffs
All city police officers located in Clark and Madison Counties
Kentucky State Police
Eastern Kentucky University Campus Police

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

The petition shall be presented to a family court judge for review and consideration regarding the issuance of an emergency protective order. If no family court judge is available, a district court judge shall be contacted for consideration of the emergency protective order. If no district court judge is available, a general jurisdiction circuit judge shall be contacted for review and consideration.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition for review and consideration regarding the issuance of an emergency protective order first to a family or district court judge according to the following first-call schedule:

1 st – 6 th day of each month	Family Division III
7 th – 12 th day of each month	Family Division IV
13 th – 18 th day of each month	District Division I
19 th – 24 th day of each month	District Division II
25 th – 31 st day of each month	District Division III

Each such judge shall make a good faith effort to be accessible during his or her designated week, but in the event review of a domestic violence petition cannot be accomplished within one hour of initial contact, the next judge on the list shall be contacted, and so on. Should the occasion ever arise where no family or district court judge can be contacted, then the general jurisdiction circuit judges of divisions I and II shall be contacted.

E. The schedule for domestic violence hearings is as follows:

Clark County: Thursday* at 9:00 a.m.
Madison County: Wednesday* at 9:00 a.m.

These days are subject to the master calendar issued by the Court prior to each calendar year (which takes into account all holidays.) See FCLR25 2.01.

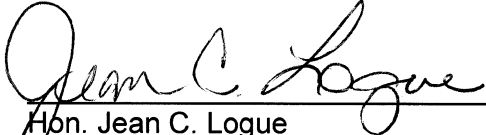
III. Contempt Proceedings

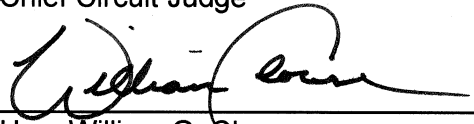
- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate contempt proceedings should see FCLR25 2.02 and follow the same procedures for contempt.
- C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the circuit/district:

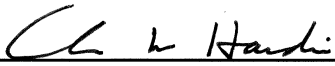
This the 14th day of November, 2011.

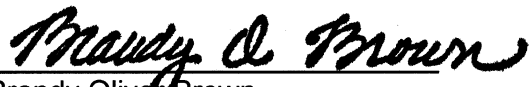

Hon. Jean C. Logue
Chief Circuit Judge



Hon. William G. Clouse
Circuit Judge, Division I


Hon. Nora J. Shepherd
Circuit Judge/Family Court Div. III


Hon. Jeffrey M. Walson
Circuit Judge/Family Court Div. IV


Hon. Charles W. Hardin
District Judge, Division I


Hon. Brandy Olive Brown
District Judge, Division II


Hon. Earl-Ray Neal
District Judge, Division III